IN THE HIGH COURT OF UTTARANCAL AT NAINITAL

WRIT PETITION NO.2390 (MS) OF 2001

Kundan Singh,
S/o Sobhan Singh,
R/o Village Jhuni,
P.O. Jhuni, Patti Mala Danpur,
Tehsil Kapkot, District Bageshwar. .....Petitioner.

Versus

1. Collector Almora, District Almora.
2. Kripal Singh, S/o Jodh Singh, R/o Village & P.O. Suipi, Patti Mala Danpur, Tehsil Kapkot, District-Bageshwar.
3. Govind Singh, S/o Shyam Singh R/o Village & P.O. Liti, Patti, Bichala Danpur, Tehsil Kapkote, District Bageshwar.
4. Resident of Village Supi Ka Laga Dangugwad, Patti Malla Danpur, P.O. Liti, Tehsil Kapkote, District Bageshwar.
5. Resident of village Liti and Liti Ka laga Dangugwad, Patti Malla Danpur, P.O. Liti, Tehsil Kapkote, District Bageshwar.
6. Chamu Singh, S/o Gopal Singh, R/o Village & P.O. Supi, Patti Malla Danpur, Tehsil Kapkote, District-Bageshwar.
7. Dham Singh, S/o Jasmal Singh, R/o Village and P.O. Liti, Patti Bichala Danpur, Tehsil Kapkot, District Bageshwar.
8. State of Uttaranchal, through Collector Bageshwar.
9. District Judge, Bageshwar. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Mahendra Singh Pal, Advocate for the petitioner, Mr. R.S. Sammal, Advocate for the Zila Panchayat, Standing Counsel for the respondents no. 1, 8 and 9, Sri Sudhir Singh, Advocate for the respondents no. 2 and 6 and Sri Dinesh Chauhan, Advocate for the respondents no. 4 and 5.

By the present writ petition, the petitioner has prayed a writ of mandamus commanding the respondents to correct the entry and map according to the decree passed by the Civil Judge (Senior Division), Almora dated 01.07.1977 which is annexure -2 to the writ petition. Further prayer has been made for a writ of mandamus directing the respondents not to give effect to the impugned order passed by the respondent no. 9 Further prayer has been made for a writ of certiorari quashing the orders dated 31.03.1995 and 11.03.1999 (Annexure No.4 and 1 to the writ petition respectively).

The petitioner has confined his prayer only for the execution of the decree-dated 16.12.1985. The remedy lies with the petitioner to pursue before the execution court if the same has not yet been finalized.

Counsel for the respondents has submitted that earlier execution applications have already been dismissed vide order dated 13.06.1988 passed by the District Judge, Almora, vide order dated 31.03.1995 passed by the Civil judge, Almora and vide order dated 15.11.2000 passed by the District Magistrate, Bageshwar.

Counsel for the respondents has annexed a copy of the Khatauni (Annexure No.1 to the C.A.) stating therein showing that the execution has already been carried out on 09.07.1987 and nothing more is pending. The execution application has already been finally decided.

In view of the aforesaid averments, if the petitioner is still not satisfied, he is permitted to file an application again before the executing Court, if such an application is filed, the same shall be disposed of in accordance with law after taking into consideration the averments made by the respondents expeditiously.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

05.6.2006
Rathour